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2023 MAR -2 AM 9:23
CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION

HAROLD D. WARD, Director, Division of
Mining and Reclamation, West Virginia
Department of Environmental Protection

Plaintiff,

v.

Civil Action No. 20-C-282
Presiding Judge: Christopher C. Wilkes
Resolution Judge: James H. Young, Jr.

ERP ENVIRONMENTAL FUND, INC.,

Defendant.

ORDER GRANTING MOTION OF RECEIVER FOR ENTRY OF ORDER
AUTHORIZING SALE OF CERTAIN REAL ESTATE FREE AND
CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES

By motion of January 24, 2023, the Receiver sought permission of the Court to enter into an *Easement & Right-of-Way Agreement* with Buyer, which would provide Buyer with an easement over four tracts of Receivership Estate real property in Boone County, West Virginia for the construction, repair, and/or maintenance of its utility facilities. The proposed *Easement & Right-of-Way Agreement* would provide over \$100,000.00 to the Receivership Estate. The Receiver listed the tracts for which the easement is proposed in its motion and stated that it believed the easement agreement represents fair market value for Receivership Estate assets.

The Special Receiver and a lien-holder, Appalachian Headwaters, Inc., advised the Court that they have reached an agreement whereby Appalachian Headwaters, Inc. will execute limited lien releases in exchange for an agreed-upon percentage of the easement proceeds. Accordingly, Appalachian Headwaters, Inc. does not object to the motion.

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Having reviewed the motion and heard such parties as desired to be heard, the Court hereby GRANTS the motion and FINDS and ORDERS as follows:

As to the tracts of real property listed in Receiver's motion filed by motion dated January 24, 2023 the Court finds that the Receiver may enter into an *Easement & Right-of-Way Agreement* with Buyer. Furthermore, the Receiver is authorized to execute any documents necessary to effectuate the execution of the *Easement & Right-of-Way Agreement*. No liens, claims, or encumbrances against the tracts listed in the Receiver's motion shall attach to any payment proceeds related to the *Easement & Right-of-Way Agreement*, nor shall any such liens, claims, or encumbrances interfere with Buyer's use and enjoyment of the resulting easement.

ENTERED this 2nd day of March, 2023.


CHRISTOPHER WILKES
Presiding Judge

Date: 3/2/2023
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